

**Mid-term report of Austria
on the implementation of the UPR recommendations
August 2013**

Introduction

The first review of Austria in the framework of the Universal Periodic Review by the Human Rights Council took place on 26 January 2011 in Geneva. The Head of the Austrian delegation, Foreign Minister Dr. Michael Spindelegger, then announced the submission of a mid-term report on the implementation status of the UPR recommendations two years after the review, which is herewith presented.

Austria considers the UPR process as a key human rights tool of the United Nations that guarantees a comprehensive and regular human rights examination of all UN Member States.

Around the time of its first UPR review Austria also applied for a seat on the UN Human Rights Council and was elected on 20 May 2011 for the period 2011 to 2014. Within the framework of its candidature Austria submitted a series of pledges and commitments; its implementation is an on-going process with the involvement of civil society.

On the occasion of the 20th anniversary of the World Conference on Human Rights Austria organised, together with the Office of the High Commissioner on Human Rights of the United Nations and the Ludwig Boltzmann Institute for Human Rights as well as the European Training Centre for Democracy and Human Rights of the University of Graz, an international experts conference “Vienna+20: Advancing the Protection of Human Rights” on 27 and 28 June 2013 in Vienna. This conference put a focus on human rights defenders and civil society and demonstrated their central role as key stakeholders and partners for the promotion of human rights. Their demands are also substantially reflected in the recommendations that are in the outcome document of the conference. Austria will present the outcome of the Vienna conference at the relevant international fora and to interested stakeholders.

Structured implementation process of the UPR recommendations in dialogue with civil society

Austria initiated a systematic implementation process taking into account all recommendations that Austria has accepted. The human rights coordinators within the federal ministries and the provincial governments that were established in 1999 play a key role in this process. In regular meetings coordinated by the Federal Chancellery and the Federal Ministry on European and International Affairs they discuss current human rights issues and especially the status of implementation of international human rights obligations in Austria.

The 131 accepted UPR recommendations were assigned to the respective ministries according to their competences by the human

rights coordinators. Subsequently thematic working groups with interested NGOs were established by the relevant ministries in order to discuss ways of implementing the UPR recommendations.

Furthermore, a UPR steering committee composed of senior officials of the Federal Chancellery, the Federal Ministry on European and International Affairs and NGO representatives was set up to accompany the implementation process, for example by debating implementation issues on specific topics with the help of other experts and by providing the ministries with suggestions. In several public events information about the implementation status of the UPR recommendations was provided and discussed with civil society. The UPR process has facilitated a constructive dialogue with civil society on human rights issues in Austria.

Recent developments

Austria has to a large extent implemented the pledges and commitments that it announced to commit itself to during its candidature to the Human Rights Council.

The following examples shall be mentioned:

Signature or ratification or accession to the following international human rights instruments:

- Ratification of the International Convention on the Protection of all Persons against Disappearance on 7 June 2012, Federal Law Gazette Vol. III No. 104/2012;
- Ratification of the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) on 4 December 2012, Federal Law Gazette Vol. III No. 190/2012;
- Ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse on 25 February 2011, Federal Law Gazette Vol. III No. 96/2011;
- Accession to the UNESCO Convention against Discrimination in Education was adopted by the Council of Ministers on 18 January 2011, the adoption by the Parliament is being prepared;
- Signing of the Council of Europe Convention on preventing and combating violence against women and domestic violence on 11 May 2011, ratification is imminent.

Inclusion of a definition of torture in the Penal Code:

With Federal Law Gazette Vol. I No. 120/2012 a separate torture offense was introduced as § 312a in the Criminal Code. The law entered into force on 1 January 2013.

Establishment of a National Preventive Mechanism according to OP-CAT:

For the implementation of OP-CAT the independent Ombudsman Board was appointed as the Austrian central point of contact to prevent torture. This was done with the OP-CAT Implementation Act, Federal Law Gazette I No. 1/2012, which entered into force on 1 July 2012.

With the OP-CAT Implementation Act it was made clear in the Austrian Federal Constitution that the abuses that are being examined by the Ombudsman Board can also be human rights violations. Thereby the Ombudsman Board now takes over the responsibilities of a national human rights institution.

As National Preventive Mechanism the Ombudsman Board examines together with six independent commissions, which were set up by the Ombudsman Board, places where people are deprived of their liberty and controls also the work of the executive organs in the course of these examinations. The places examined are not only prisons and police stations but for instance also military barracks, mental health institutions, retirement and nursing homes, crisis management centers as well as living communities of young people. Likewise institutions and programs for people with disabilities are controlled to avoid exploitation, violence and abuse. In total around 4,000 public and private institutions are being controlled.

The Ombudsman Board is being supported in its work by a Human Rights Advisory Council, which is composed of representatives of federal ministries, provincial governments and NGOs.

Another new element is the right of the Ombudsman Board to submit separate reports to the National and the Federal Assembly on specific observations in the course of their inspection activities.

The independent commissions are composed of experts from different disciplines and conduct unannounced control visits. They gather information and facts and assess them based on the specifications of international agreements. They may search all files as official secrecy is not applicable vis-à-vis the commissions. They have to be able to make unimpeded contact with individuals. The commissions report directly to the Ombudsman Board on their visits and inspections. These reports (“inspection protocols”) are the basis for the decisions of the Ombudsman Board and include recommendations on the prevention of human rights violations

Fight against Racism:

In many areas Austria took further legislative and political measures in the fight against racism, xenophobia and intolerance.

- The offence of incitement to hatred, which is governed in § 283 of the Criminal Code, was aggravated (Federal Law Gazette Vol. I No. 103/2011) by the fact that it is no longer necessary to prove the suitability of endangering public security but that the perceptibility by a broad public is sufficient. The set of protected persons was also extended considerably.
- With the amendment of the Act Governing the Employment of Foreign Nationals (Federal Law Gazette Vol. I No. 25/2011) its § 8 para 2 was cancelled which had provided that the dismissal of foreign workers had to be given priority in case of employment shortage within a company.
- The National Action Plan on Integration was adopted in 2010. For its implementation a State Secretary for Integration was appointed in April 2011. The National Action Plan on Integration serves as a basis for measures to promote integration, equality and the reduction of prejudices. Based on indicators the success of these measures is regularly evaluated and published in the annual integration report (www.integration.at).

The appendix contains a list of all measures taken in accordance with each UPR recommendation indicating also the respective status of implementation.